

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
SEPTEMBER 27, 2007

The Common Council of the City of West Lafayette, Indiana, met in the Board of Works Room at City Hall on September 27, 2007, at the hour of 4:30 p.m.

Mayor Mills called the meeting to order and presided.

Present: Griffin, Hunt, Keen, McMullin, O'Callaghan, and Satterly.

Absent: Truitt.

Also present were City Attorney Bauman, Clerk-Treasurer Rhodes, City Engineer Buck, Public Works Director Downey, and Fire Chief Drew.

Mayor Mills said I want to just start by giving you a little bit of news. We had a visit from the Champaign-Urbana city, council, staff, the town manager from Champaign, and development people, fire chief, the deputy chief of police, a couple council people—anyway, a group of about 15 people came today from Champaign-Urbana. I told you about that in the last few weeks. But we had a great visit, I think, and Patti [Councilor O'Callaghan] and Ann [Council President Hunt] were here for the majority of the time. Did a little tour of the Research Park, ate lunch, and just chatted about the issues affecting us as university communities. Drove around and saw the fire station out in the Parks barn, the fire chief was along and particularly wanted to see that renovation, so we stopped by there on the way to the Research Park. And then came back and talked about code enforcement and underage drinking and just some of the typical university issues. So it was very, very good. I thought it was very worthwhile, and I think they all really enjoyed it. They are taking up snow shoveling of sidewalks right now. Currently they've been discussing it for the last month or so, so they were very interested to hear our snow shoveling stories. I thought it was good, and they have invited us to come for a visit in the spring. So I think it would be a worthwhile trip to do that, to go to a neighboring Big Ten city that enjoys being the home of a university and shares some of our same concerns. I'll just throw that out there in the spring. It might be worth talking about again. They say wait 'til after it quits snowing because they haven't worked out the snow shoveling ordinance yet.

UNFINISHED BUSINESS:

Ordinance No. 30-07 (Amended) An Ordinance Requesting An Additional Appropriation (Clerk-Treasurer, Police Station Nonreverting Fund) (Prepared by the Clerk-Treasurer) **PUBLIC HEARING**

Mayor Mills said okay, we have only one item of unfinished business this month, and that is the additional appropriation. We'll have the public hearing for that on Monday night. Are there any questions on that? We had that first last month.

There was no further discussion.

NEW BUSINESS:

Ordinance No. 31-07 To Rezone Certain Real Estate Within The City Of West Lafayette, Indiana And Designating The Time When The Same Shall Take Effect [Robert Bouggy and John Folkers, R1 to NB] (Submitted by Area Plan Commission)

Mayor Mills said Mr. Bumbleburg is here to discuss it with us.

Mr. Bumbleburg [Ball Eggleston law firm] said thank you, Mayor. Dr. Folkers is here with me also, if you would like to talk to him about it. I believe that each of you has the Area Plan Commission's Staff Report on this and all the technical data, and they reported back to the APC accurately, and we agreed with them on that. They attempted to take this case and distinguish it from another case over in Lafayette and for all my views on it, since I did the other one, too, that paragraph you can just leave out when you're reading this.

Councilor Satterly said I'm not sure we'll do that.

Councilor Griffin said editorializing, I believe, is the word.

Mr. Bumbleburg said I understand that, Doctor [Councilor Griffin].

Councilor Satterly said when you say that, we're on guard now.

Mr. Bumbleburg said sometimes you folks in the academic world, Professor [Councilor Satterly], rise to the bait beautifully.

Councilor Satterly said oh, yes.

Mr. Bumbleburg said in any event, you have a first-cut drawing here that shows what the doctors are trying to do. It's hooked to the Staff Report, and I'll bring more of those along on Monday night for anybody that wants them. I think the important thing that I can tell you about this is from the day we started on this project, we started to talk to the City administration about it, and so I've been in the Mayor's office about this, I've been with Mr. [City Engineer] Buck about this, Ann Hunt and I have talked more about this one than a lot of these that we have, but, most importantly, at Ann's suggestion, she reminded me who lives in the neighborhood. And Persis Newman lives there. I've known Persis a long time. I've seen her on both sides of my cases, and have come to regard her as a friend and an able advocate when you have her on your side. In this case, she gave us names, and we indeed invited a whole series of people to a meeting at the doctors' office, where we showed them drawings and plats and the whole nine yards and listed to their input. Essentially what we got from those folks was a consensus that said, "Go ahead." A dentist's office on this site is essentially what an NB zone really is designed to do. It's a neighborhood business. A dental office ought to be close to people, and this one has always served in that kind of function. When we got to the [APC] meeting, the only person who showed up was Persis. And she spoke in our favor and, indeed, I did something in this one that I occasionally do, and even though we have this requirement under the ordinance to advise people within 100 feet and across the street and that sort of stuff, I took everybody who had come to our meeting, because I had their names and addresses, and sent them a notice and said, "You know, you wouldn't get the formal notice, so be reminded." And so they were, and I got several calls from those folks that said, "We said our piece at the meeting. We're all for this. Go ahead and do it. It's all right with us." So, I guess what we have here is a rezoning request that has met the approval of the Area Plan Commission unanimously. I have drawn a Staff Report in favor, and the neighbors that have talked to me about it have all expressed their, if you will, consent in this matter. Essentially what we're going to do is take the building down that's there now and build a dental office that will have bigger rooms, treatment rooms, and all those kinds of things. And it will be ADA qualified, which the current building struggles to be.

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With this, we'll be having a much better service-producing building in this area. John [Folkers, DDS, one of the petitioners] and I would try to answer any questions that you might have. Thank you.

Councilor Satterly said there's no change in the access from the roads?

Mr. Bumbleburg said no.

Councilor Satterly said INDOT?

Mr. Bumbleburg said well, we're going to lose one, because when we take that one house down, that one driveway will go away.

Councilor Satterly said but you still have just one driveway—

Mr. Bumbleburg said yes.

Councilor Satterly said just—what?—right in, right out?

Mr. Bumbleburg said well, I forget [to Dr. Folkers] is it a right in, right out?

Dr. Folkers said no.

City Engineer Buck said no, it's not.

Mr. Bumbleburg said it's not, he's right.

Councilor Satterly said you can turn left to get into it?

Mr. Bumbleburg said yes, you can. There will be no driveways or anything over on Lindberg. But we do lose the former driveway there.

Councilor O'Callaghan said the concern we always hear about, when they put business close to a neighborhood is what other kinds of businesses might come there. Any answers to that concern?

Mr. Bumbleburg said I know we hear that all the time, and rarely ever does that materialize. It's in the trade what we call, "Oh, God, here comes the list of 'horribles' again." I think in many respects, you have to rely on the character and integrity of the petitioner. These guys are not doing all this simply because they want to sell this thing next week. They're doing this so that they can deliver their dental practice better.

Councilor O'Callaghan said and the staff report does note that the zoning pattern and land use have remained stable for the past 25 years.

Mr. Bumbleburg said that's right.

Councilor O'Callaghan said "the dental office has been in its current location since 1964." So that does bode well for that. I just wanted to get that issue in the record.

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Councilor Satterly said Joe [Mr. Bumbleburg], where the existing dental office is, that's presently NB?

Mr. Bumbleburg said yes.

Councilor Satterly said so you're just asking for the—

Mr. Bumbleburg said one more lot.

Councilor Satterly said for the adjacent lot. That's all from our point of view, going from R1 to NB?

Mr. Bumbleburg said that's correct, yes. And I think if I went back, there's a notch even in this lot that may have gotten rezoned several years ago—

Councilor Satterly said yes, they changed to 16 parking spaces.

Mr. Bumbleburg said in order to fix up their parking.

Councilor Griffin said they extended the parking south by purchasing land to rezone.

Mr. Bumbleburg said yes.

Councilor O'Callaghan said and in particular, the neighbor right next door—have you in particular talked to them? I mean, are they—?

Mr. Bumbleburg said Ann [Councilor Hunt] has talked to him.

Councilor Hunt said I'm going to—

Mr. Bumbleburg said I am not high on their list, so I'm—

Dr. Folkers said we have talked to them.

Mr. Bumbleburg said they've had them over. We have tried desperately to get the neighbors, anyone who wanted to talk to us in this area, to do so.

Councilor Griffin said I think he's reasonably successful at that.

Councilor O'Callaghan said just one thing that kind of occurred to me reading the Staff Report was that the staff said, "While the staff has not reviewed the petitioners' site plan for compliance with the Unified Zoning Ordinance, a cursory glance reveals that several parking spaces located on the west side will need to be relocated." Has somebody done more than a cursory glance?

Mr. Bumbleburg said well, at this stage of the game, a cursory glance is all this part of the process does.

Councilor O'Callaghan said yes.

Mr. Bumbleburg said the next step is to engage the surveyor to come in and replat these lots into one. That will move the center line out of there, and when we have the surveyor, then we can really do the fine tuning and the measuring. And they're right. That's not the only thing that I noticed that there needs to be some buffing and polishing—

Councilor Griffin said the edges of the building that, on this preliminary drawing, overlie the building setback from the rear lot--

Mr. Bumbleburg said and Mr. [City Engineer] Buck and I would have to talk about where you measure the setbacks from. Do you measure it to the building, the base of the building, or the roof line?

City Engineer Buck said we've looked at this plan fairly thoroughly enough to know that it's doable.

Councilor Griffin said right. Exactly.

City Engineer Buck said it's certainly feasible that, if the zoning would allow it, what they're generally talking about, proposing here, we can work through the fine-tuning details of one or two parking spaces, trees, street trees, eaves, stoops, overhangs, those kind of things.

Councilor O'Callaghan said thanks. And then also it says will need to contact the greenspace ordinance, and you've talked about this—?

City Engineer Buck said it's in the ballpark there.

Councilor O'Callaghan said thanks.

Mr. Bumbleburg said every site plan that we've had in this has gone to Dave's [City Engineer Buck's] office.

Councilor Griffin said you have some existing trees marked here, Joe [Mr. Bumbleburg]. Why don't you tell us about those?

Mr. Bumbleburg said well, we want to know where they are. And there is one tree, just one monster tree up in the corner—and the whole theory of this thing has been to try to design this stupid parking lot to save that tree.

Mayor Mills said you knew that was coming.

Mr. Bumbleburg said I knew that was coming. You should have seen him at the Octoberfest the other night here.

Councilor Griffin said [unintelligible] editorializing.

Councilor Hunt said I'd like to make a couple comments, if I may.

Mayor Mills said yes.

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Councilor Hunt said on July 17, as Joe [Mr. Bumbleburg] said, there was a neighborhood meeting there. I think there were about 15 people there, something like that. And there were, I called it "the love fest," I mean it was very positive. And then since the APC meeting, I've gotten eight emails and two verbal statements from the neighbors supporting it. In addition, they are going to try and save that oak tree. I've forgotten if that's an oak tree or some other big old tree. And one other advantage of this is right now there's a sump pump or some riffraff that goes into the street on Lindberg that's quite icy, and so that will go away, and that pleases the neighbors. And this driveway also.

City Engineer Buck said we don't like that, either.

Mayor Mills said is that it?

Councilor Hunt said that's all I have for now.

Mayor Mills said any other questions or comments?

Councilor Griffin said will there a right and left out, or just right out?

City Engineer Buck said they have full access now. I don't think they're talking about increasing their trip generation so much so it's going to have a significant impact on that.

Councilor Griffin said yes, I wasn't doubting.

City Engineer Buck said yes.

Mayor Mills said anything else? All right, thank you very much.

Mr. Bumbleburg said thank you, Mayor. Thank you, members of the Council. See you all Monday night.

There was no further discussion.

Ordinance No. 32-07 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect [Chauncey Square PD Part II, R3W and PDMX to PDMX] (Submitted by Area Plan Commission)

Mayor Mills said this is also a rezoning, from R3W and PDMX to PDMX. This is for Chauncey Square Part II, and Kurt Wahl is here. Mr. Wahl.

Mr. Wahl [Wahl Architecture, PC] said thank you, Mayor, Council members. Last week, we received approval from Area Plan Commission. We have reviewed all their recommendations and have no problems at all with them. This project is an extension of the current Chauncey Square project which is under construction. When we designed Buildings A and B, Mr. Fleischhauer did not own this big piece of property. Since, he has acquired this property. Now is the final phase, if you want to call it, of Chauncey Square Development. This is a seven-story apartment building, 24 units, 66 bedrooms. The rooflines will be continuous from the rooflines of Buildings A and B, so if you're familiar with those buildings, you can see the two big gable ends heading towards Salisbury Street. Those rooflines will be continuous right on through this

building here. Although the key to this design, I think, was, when we finally did have this building come down to Salisbury Street, we said, "We really want to make an effort to deal with the residential elements on Salisbury Street and soften the building—even though it is a seven-story building—soften the building as much as we can and relate to the residential uses and other buildings that are around the site on Salisbury Street. So what we have done is set the building back at the corners. We've created a large amount of greenspace on both corners there. We've done some fencing work around that, to make it look like yard space there. We've also added some architectural elements around the bottom of the building to soften that and give more of a feeling of the ground. The plane when you're near the building. That would be these little white limestone units here, and then we picked up the same pieces with these pilasters and light posts along the fence. I would think it's important to know that, like I'm saying, the rooflines are continuous from what's there, but the building on Chauncey Avenue now is only five stories. As Building B turned and came down South Street and the grade fell away, that became six stories, and now the final piece at the very end, the grade continue to fall, and that's why we have seven stories there. But all the internal floors do line up with and basically connect to the other buildings, using all the services—the elevators, the stairs—that are already in place in Buildings A and B. I'll be happy to answer any questions.

Councilor Satterly said you have enough parking spaces in the garage to accommodate those extra bedrooms?

Mr. Wahl said yes, we do. And, in fact, when we factored in all the parking required for this phase, we still have 22 spaces left over in the parking garage.

City Attorney Bauman said and then—

Councilor O'Callaghan said it could be 47, depending on—

Mr. Wahl said it could be 47.

City Attorney Bauman said as has been done in these other planned developments, it's been done on the basis of one per bedroom, which actually will be slightly more parking than an R3W standard requirement.

Councilor O'Callaghan said I like the garage also, taking the architectural elements of the building. That's really nice.

Councilor McMullin said so what are the extra spaces going to be used for? I assume the tenants of Fleischhauer Rentals?

Mr. Wahl said yes. Those would be—and to tell you the truth, I don't quite know what his actual plans are. They could be used for future development. They could be held in reserve, if some of the uses change and more parking is required for the uses on Chauncey Street, or they could just be rented out.

Councilor O'Callaghan said that's what the [APC] Staff Report said, down on the bottom of page 2, that they could rent the extra spaces to other businesses or individuals.

Councilor McMullin said as you know, parking is at a premium in that area, so...

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Mr. Wahl said yes.

Councilor Hunt said well, that's one of the nice things about this whole development is parking.

Mr. Wahl said yes.

Councilor McMullin said and you really did think all along when you originated the project that you would like to include this piece, but it's just been acquired, is that correct?

Mr. Wahl said that's correct.

Councilor O'Callaghan said and so planned that, building the garage planned this number of spaces that would accommodate this from the beginning?

Mr. Wahl said yes.

Councilor Hunt said show me again what you're adding. The long thin one?

Councilor Satterly said no, just from here down.

Mr. Wahl said you can see that line there, which is about 4 or 5 foot from the wall section, that is Building B. So that is beyond. So it's from that inside corner there this way. And then, you can't see it better, it repeats itself the same way around that corner there.

Councilor Satterly said and these are the [unintelligible]?

Councilor Hunt said there.

Councilor Satterly said yes.

Councilor O'Callaghan said Kurt [Mr. Wahl], we had a question this afternoon and maybe you know the answer. Was whether all the multiple units that are within walking distance of the campus, are they all fully-occupied now?

Councilor Griffin said how far do you want to walk?

Councilor O'Callaghan said that's true. But the question was walking distance, so—

Councilor Griffin said would that put you over the river?

Mayor Mills said I would. That's easily walking distance.

Councilor Griffin said okay.

Mr. Wahl said and, Patti [Councilor O'Callaghan], I think you're talking about in general, all units, and I—

Councilor O'Callaghan said and you wouldn't know that, but it was an interesting— I thought, too, since we do obviously have some vacancy in the County, but Buz's [Assistant Director of

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Development Grady's] opinion was that those are fully occupied. Those ones within walking distance are fully occupied.

Councilor McMullin said speaking with the Fleischhauer people, they're having to place a lot of the tenants who rented out that building and, you know, every single one of them wanted that building because it was on campus. So I would imagine it's pretty much at capacity, because I talked to a number of them, and they're out a Blackbird Farms and what-not, so that's my best guess.

Councilor O'Callaghan said cause they often will get that when we're approving more apartments, people will say, "Well, why are you approving more. There's a vacancy rate." But not here.

Mr. Wahl said the Building A apartments that were all leased, even though they're not finished yet, but they were all leased, I do know that Michael Lin's place that just opened up, that's 100% leased, too.

Mayor Mills said the one on River Road there at the end of—

City Attorney Bauman said Wood.

Mayor Mills said Wood Street.

Councilor Satterly said how about the building on State Street and South River Road? Is that 100%?

Councilor Hunt said like where Potbelly's is?

City Attorney Bauman said I've been told that it is.

Mayor Mills said River Market.

Councilor Hunt said oh, I thought you meant the other side where Potbelly's is.

Councilor Satterly said no, the other side, across from there.

City Attorney Bauman said I've been told that it is.

Mr. Wahl said so have I.

Councilor Satterly said they filled up kind of slowly.

Mayor Mills said but I think it's just another indication that, you know, this is the kind of stuff we need, infill close to campus where people can walk, rather than spread way out in the County—

Councilor Griffin said where they're looking for amenities and quality.

Mayor Mills said I love the little courtyard areas. That's just going to make it really spectacular looking.

Mr. Wahl said and just a couple more things, if we have some time. I've been working a lot with Dave [City Engineer Buck] on the construction phasing for this, and actually dragged the construction manager and sat him down at Dave's desk, and we ironed this thing out. So I believe it is under control. I'll ask Dave [City Engineer Buck] if he feels comfortable with the direction we're heading now.

City Engineer Buck said we wanted to put together an idea, so that everybody could understand the magnitude that this last big piece of the jigsaw puzzle down here is going to require to be built, in terms of use of the public right-of-way and how painful it's going to be for the people in that general area. We want to make sure that, when Building A opens and the first floor restaurants and retail areas are doing business, that the construction site's the construction site, and the part that's occupied is separated from it. And what parts of the street, obviously, are they going to need to use to be able to keep the rest of that block open and safe for the public. It's hard to see this page—it's in your packet—and not all the text was on it. Kurt [Mr. Wahl], I don't know if it's possible if you might have—

Mr. Wahl said a bigger one.

City Engineer Buck said a bigger one. South Street and Salisbury Street will be the two main impacted City streets for a period of time, between 12 and 18 months, depending on how fast and smooth construction goes. North is toward Kurt [Mr. Wahl], and this is the Building A component and the parking garage. And Salisbury's over here and South Street's here. So as much as possible—and completely Chauncey would be open—there would be business deliveries available on Chauncey, and that would be basically complete. Starting on South Street, though, there would be a fence that would come out and basically take up about three-quarters of the street, so that there would only be 12 feet left for one-way traffic eastbound. No parking. All this is two-hour parking on here now, so the people that are on the other side of the street, if they don't have enough parking in their individual units, there are people that are moving cars or parking farther away and walking in untimed parking.

Councilor Griffin said it's about 10 spaces?

City Engineer Buck said yes, probably.

Mayor Mills said it's probably about that.

Councilor Griffin said because there are some little short spaces there that are broken up because of driveways—

City Engineer Buck said there's one alley, but there are some other things like fire hydrants—

Councilor Griffin said right.

City Engineer Buck said and things that break up the available parking. And then on each of the corners on Salisbury Street, they've put a gate—well, all this dotted line is permanent chain-link fence that's been drilled to the street that won't be moving on a daily basis or as deliveries come and go. But they have located gates on the ends, to help facilitate bringing in materials and construction whatever, workers and cranes and things like that into the worksite. That would give them the rest of the at right-of-way for the construction site, and half of Salisbury Street for the half block from the alley back down to State Street would be also included in that fenced-off

area. As necessary, they've shown that they will put in concrete barriers behind that chain-link fence, in case it's adjacent to traffic, and we don't want somebody to veer off the wrong direction and go right through the fence and get injured or, you know, hit a construction worker or anything like that. It's commonly done on Purdue's projects. We use that same kind of setup on University Street, when the computer science building was being built. That will require parking be taken off Salisbury Street for a little more than this half block, to allow traffic to change lanes and have lane pavers go on. And then maintain two-way traffic right past this half block, to the construction site. Depending on how things go, you can see they're saying possibly October '07 to June 2009 for both of these. That's if things go well and weather's not a problem. It may be longer than that. They are also using their alley that was once a City alley and was vacated as a part of these two projects. There is permanent fence down here, and there is access to their dumpster, which they're showing it here, but their trash compactors and things will be here for the tenants to come out the back of the building at this location here, and as well another location for additional business deliveries to come in that back alley and pick up the trash or the UPS guy or whatever.

Councilor Griffin said so, couple questions. You know, there was—with putting in the new sewage line there, Salisbury was down for a while.

City Engineer Buck said yes.

Councilor Griffin said have we—is the Triple XXX and some of the other businesses that are down there at the south end of North Salisbury—are they privy to this yet, at this point?

City Engineer Buck said I'm not aware. Not to my knowledge.

City Attorney Bauman said well, you won't be restricting traffic, though.

City Engineer Buck said yes, we will maintain—

Councilor O'Callaghan said it still will be two-way.

Councilor Griffin said I understand that. The other thing is that it's currently, this is a tough place, the Village is specifically where there's angled parking right now on the north side of South Street.

City Engineer Buck said that was actually a temporary thing that was done through this construction zone. That used to be parallel parking when the church was there, and—

Councilor Griffin said no, actually I'm talking about—Dave [City Engineer Buck], I'm talking about here—

City Engineer Buck said oh, over there? Okay.

Councilor Griffin said okay, so these parking spaces and these parking spaces basically parking is being pushed out of here. These are pretty hard to come—it's hard to come by.

City Engineer Buck said the garage will be open in its entirety.

Councilor Griffin said okay, good.

City Engineer Buck said so the Town Center spaces that used to be here are going to be all available in back. Contractor parking—well, you know, there won't be people living here, so there will be plenty of extra places for the contractor parking.

Councilor Griffin said okay.

City Engineer Buck said they will not need on-street spaces like they have been using in this first phase—

Councilor Griffin said good. Glad to hear that.

City Engineer Buck said for the construction. And the tenants themselves that will be living in Building A and the restaurant workers, as well as the people going to the restaurants, will be able to park in the garage too. So the garage was a component, and it's really close to being ready to CO, so it's—

Mayor Mills said and that was a component of whole planning from the beginning, to have that garage functional before we got to the part where people were going to have to somewhere to park.

Councilor O'Callaghan said and how is the parking garage going to be regulated, do you know? Is it going to be gated? Are there going to be passes? Are they going to do that?

Mr. Wahl said there will not be a gate at the street level. I forget all my numbers, but there are a couple floors allocated for the business uses and for customers coming in and out.

Councilor Hunt said in this building? Not these ones over here?

Mr. Wahl said correct, for this building here. And then the upper levels—and then there's a gating system, and the upper levels are reserved for residents.

Councilor Hunt said for the development?

Mr. Wahl said yes, so the traffic control is internally in the garage.

Councilor McMullin said I just want to make sure that we're going to have these well marked, so we don't have some ambiguity in terms of, you know, student or someone in the area wants to come park in the garage to go over there. Are they going to be pretty well marked, so it's clear to anyone parking there—?

Councilor O'Callaghan said or in for business or for—?

Mr. Wahl said "Residents Only," "Visitors," and "Commercial Customers." I mean, that'll all be in the same place.

Councilor O'Callaghan said some signage.

Mr. Wahl said yes.

Councilor O'Callaghan said some signage type thing, right, Ross?

Councilor McMullin said right.

Councilor Hunt said and when you come out, that same thing. Will you get something stamped by the businesses here?

Councilor O'Callaghan said it sounds like it's not going to be monitored on those.

Councilor Satterly said it's going to be open.

Councilor O'Callaghan said it's going to be open, but there are going to be signs that say—

City Attorney Bauman said I'll bet they end up having to monitor it.

Mayor Mills said yes, or you'll have people parking or walking as it is.

Councilor O'Callaghan said no gate on the street.

[overtalking]

Councilor Satterly said or parking in here and going to other commercial establishments.

City Attorney Bauman said well, now some of the spaces in the garage in that calculation are for the use of Town Centre. Because part of that block that was a parking lot was a shared parking calculation for Town Centre.

Councilor Griffin said because it's part of Fleischhauer property.

Councilor O'Callaghan said yes.

Councilor Satterly said Town Centre, though, is apartments.

[overtalking]

Councilor Griffin said you know, the ice cream place and the grocery store and so forth along Chauncey.

Councilor Satterly said well that's Town Centre.

Mr. Wahl said and then this last comment I want to make which is my own opinion here. When I was drawing Buildings A and B, Bill Fleischhauer was off in Florida, doing his own thing. And—

Councilor O'Callaghan said so you could do what you wanted.

Mr. Wahl said yes. And now he is returned, and he's been a very active part of the design of Building C. But not only have we talked about Building C, but we've talked about his vision for the community and the future of West Lafayette. And I'm very impressed from what I'm hearing. He's done his homework on Big Ten communities, on SEC communities, figuring out what works, what doesn't work, and he's trying to implement this and his future projects. It's all

based on giving a very good high quality product, and he stands by that. And I truly believe it, after seeing the extra steps that he's gone with this project here and where he is going in the future here. So I just wanted to let you know that he is planning future work here, and he has done his homework. He is committed bringing West Lafayette to the equal of Baton Rouge or other big-time college towns. Thank you.

Councilor O'Callaghan said that's neat to know. Thank you.

Councilor Hunt said one more thing that kind of reinforces that is I believe it was on here, but they donated some trees that were moved from one of the corners to Dubois Park. So they moved some trees with a big tree spade a couple years ago. The Tree Fund paid for it, and it was really—

Councilor O'Callaghan said that's neat.

Councilor Hunt said it kind of goes along with what you said.

Mayor Mills said it was when they took the church down. Any other questions? Thank you very much.

Mr. Wahl said thank you.

There was no further discussion.

Resolution No. 28-07 A Resolution Requesting The Transfer Of Funds [Clerk-Treasurer, Fire Department] (Prepared by the Clerk-Treasurer)

Mayor Mills said okay, the final piece of business is a resolution to transfer funds. The Clerk-Treasurer and Fire Department. Judy [Clerk-Treasurer Rhodes].

Clerk-Treasurer Rhodes said you'll find at your places an amended version. I'll be asking for an amendment tonight, because of an increase in the workers' compensation deductible expenses, which were paid out of the 341 line item in my budget. I expect that we will have some other transfers before the year's over, as we have several claims that are working through the system.

Mayor Mills said okay, questions?

Councilor Griffin said we haven't made this amendment yet, right? So I move to amend by substitution the new version here.

Councilor O'Callaghan said second.

Mayor Mills said okay, we have a motion to amend by substitution Resolution No. 28-07.

The amendment to substitute the revised Resolution No. 28-07 passed unanimously by voice vote.

There was no further discussion.

OTHER BUSINESS:

Mayor Mills said any other business?

Councilor O'Callaghan said we had information at our places. Were we going to talk about that tonight?

Mayor Mills said I guess. I think you all received something from the Clerk-Treasurer earlier, a letter by email—

Councilor Hunt said it was in our packet.

Councilor O'Callaghan said it was in the packets.

Mayor Mills said discussing the annexation appeal and the fact that we did not file an appeal in our advertisement. We were missing a column that had the appeal numbers, and in talking to Paige Gregory from Umbaugh and then in follow-up calls to the DLGF that Judy [Clerk-Treasurer Rhodes] and I both made, they made it pretty clear that they have never granted an appeal if there was an incomplete filing of the appeal paperwork itself. And so rather than to have our appeal turned down, we chose not to file. We can go back next year, if we find we still want to file the appeal and file next year. Fortunately, we saved money on the insurance budget this year, so we know we'll have that money coming back and we also, remember, will get the automatic levy appeal, annexation appeal from the increased geographic area. So we expect that automatic appeal to be about \$100,000. We'll know for sure once we get the numbers from the DLGF. So it means tightening the belt a little, being very frugal, not ending up the year with as much balance as we had hoped to have. I'm, again, less worried about next year than I am the following year. But we have the opportunity next year to file an appeal if we need it. So, as it is now, it will certainly be a benefit to our taxpayers. The tax rate maybe should fall or stay pretty much the same. We'll see what the assessed valuation ends up. But that's where we are at this point.

Councilor O'Callaghan said and this at our place is—? This information at out place is—?

Mayor Mills said is from the Clerk-Treasurer.

Clerk-Treasurer Rhodes said I've provided you with some questions and answers regarding that matter, and then I have provided you with some updates to pages from your budget book that show the levy tax rates as originally proposed with the \$600,000 levy increase, a combination of the excessive levy appeal and the factor increase compared to what we believe it will be closer to \$100,000 for the geographical factor. The impact on the tax rate, as you can see, is quite different. About 95% of the increase is gone on the tax rate. The tax rate will, as the Mayor said, likely, if not to be lower, be almost virtually the same as this year. The second long sheet you have, also from the budget book, shows what we expect the property tax will look like in the General Fund. As you recall, we had planned to increase the property tax in the General Fund by over \$1 million. That increase will be closer to \$500,000 now, and in the far right column, that is the operating balance that will be worked on our Form 4Bs. Remember, these are 18-month budgets. For quite a while, we've been aware that we would carry a negative operating balance for MVH. That's very typical. And we will resolve that by the end of this year through reduction of the '07 budget, or we will resolve it by cutting the '08 budget when the budget orders come out, or some combination therein. We always wait for Mr. [Public Works Director] Downey to advise us when he's ready, if at all, to make cuts in the '07 budget.

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Public Works Director Downey said you did hear that, didn't you, David [City Engineer Buck]?

Clerk-Treasurer Rhodes said and the situation with the General Fund can be handled in a similar manner. In the Q and A that I gave you, I outlined, under question 5, several of the steps that can be taken. Most of them should be familiar to you—cutting the '07 budget; the second one, reducing the '08 budget for insurance, the Mayor had already announced that she would be considering doing that, and we're getting to the point where we know what that number will likely be as we move further into the renewal process. I believe Councilor O'Callaghan asked the Mayor about that at the last Pre-Council. And the third option, of course, is to simply make cuts and not restore them until all the appropriations revert, at the end of this year and we have unreserved cash balance. Finally, there's one item which maybe unfairly is placed there, along with steps to address the Form 4B shortfall, and that is the trash fee review and increase. I have been an advocate of this review for some time, and as the Mayor would say maybe before its time, but it's certain it's time. We have put an increased revenue in the General Fund budget for 2008, which supposes that that review and rate adjustment will occur, if not at the very beginning of the year, very early in the year. The Mayor, I think, is progressing with her plans to address that. She may describe that to you, but I would certainly add my urgent encouragement to you that, although in a sense this is a lame-duck Council perhaps—we don't know how many members will be returning—it is a matter that you need to deal with, and one that would deserve your attention for the next several months of this year. Does anyone have any questions?

Councilor Satterly said one quick question.

Clerk-Treasurer Rhodes said yes.

Councilor Satterly said on this sheet here, it says, "General With \$600,000 appeal." It should be "Without."

Clerk-Treasurer Rhodes said well, you're right. I didn't cross that out. You're right. Those words in the first row should be stricken. I'm sorry, I obviously used the sheet we had before—

Councilor Satterly said so we should cross off "With \$600,000?"

Clerk-Treasurer Rhodes said "With \$600,000." It should be "With \$100,000."

Councilor Satterly said and "Advertise \$600,000 High" should be taken out also?

Clerk-Treasurer Rhodes said no. The advertising was done. The total levy and the tax rate were advertised to take into account the appeal. There is a separate column that is advertised, in conjunction with those other columns, and that was not advertised.

Councilor Satterly said okay, so then you changed this first row here, so that it doesn't have the \$600,000 in it?

Clerk-Treasurer Rhodes said right.

Councilor Satterly said just the first row?

Clerk-Treasurer Rhodes said right—

Councilor Satterly said so it shows “Operating Balance 31 December 08” as MINUS \$181,415?

Clerk-Treasurer Rhodes said right. And that is not including the amount we expect to get from the factor. I wanted to show you—

Councilor O'Callaghan said you just said “With.”

Clerk-Treasurer Rhodes said yes, I misspoke.

Councilor O'Callaghan said so it's not with that?

Clerk-Treasurer Rhodes said no.

Councilor O'Callaghan said okay.

Clerk-Treasurer Rhodes said actually I have another version, I'm sorry, that has the factor in there, and I grabbed the wrong one.

Councilor O'Callaghan said okay.

Clerk-Treasurer Rhodes said I gave you the one that shows you the full shortfall. So the only difference is that, if you include the factor, the shortfall in the operating balance on that form changes.

Councilor Satterly said to \$81,000?

Clerk-Treasurer Rhodes said right.

Councilor Satterly said instead of \$181,000.

Clerk-Treasurer Rhodes said right, which is exactly what I described in the Q and A.

Councilor Satterly said it says on question 2, you say “The General Fund has a shortfall of \$181,415. And then question 4, you put the \$100,000 back in? So then you have a shortfall of \$81,415.

Clerk-Treasurer Rhodes said right. I did not want to present—I wanted to present that factor coming in in a series of questions, rather than—I wanted to explain it before I showed the effect on the figure. That's why I handled it like that.

Councilor Satterly said okay.

Clerk-Treasurer Rhodes said so you could see step by step how the numbers were being compiled.

Mayor Mills said questions?

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Councilor O'Callaghan said at the legislative study committee on annexation which I serve on, the acting budget director for the DLGF testified yesterday, and he also mentioned another automatic thing—no, it's not automatic, you can appeal a three-year excessive AV—growth factor, I guess is how they called it. If your AV grows more than the average, which they said would be about 5%, then you can appeal for additional funds as well. And that mistake in the advertising shouldn't impact that, should it?

Clerk-Treasurer Rhodes said no. It's totally unrelated to assessed valuation.

Councilor O'Callaghan said but this would be another way to get some additional revenue, would be with this growth factor, and I just wanted to make sure that this incident wouldn't impact that, and it wouldn't, good.

Clerk-Treasurer Rhodes said because that's based on changes in the assessed valuation.

Councilor O'Callaghan said assessed valuation. And so we just have to be aware that we can apply for that if indeed our growth is greater than the State average.

Mayor Mills said assuming that the DLGF administration doesn't change again.

Clerk-Treasurer Rhodes said assuming that we have the numbers at the appropriate time. We don't have the certified AV yet, nor do we have our income tax numbers yet.

Councilor O'Callaghan said so we can't do that for this year, no matter what. It would have to be next year.

Clerk-Treasurer Rhodes said well, I can assure you we wouldn't qualify.

Councilor O'Callaghan said this year, with the growth that we have.

Clerk-Treasurer Rhodes said but, in terms of the process, the process depends on information being available at certain periods. And so you can pass through points in the process and not have the information, the way the process is working now.

Councilor O'Callaghan said I just wanted to clarify that, because I hadn't heard about the growth thing.

Mayor Mills said and Paige Gregory from Umbaugh actually talked to me about that a little bit.

Councilor O'Callaghan said I guess I really do just have to say that, when the Mayor was asked during the budget process if we could—what would happen if we did not get the annexation levy appeal, and she was very honest and said, "We'll make it work." I frankly went to her and said, essentially, the question of one of these questions, question number 6, "If we can do it, then why are we asking for the annexation levy appeal?" Certainly for someone running for reelection, it would have been a lot better for her to have proposed not to go for an annexation levy appeal and to be able to tout lower tax rate or the tax rate be the same or lower than this year. And her answer was that it's not what would be best for the City. What would be best for the City and the urging of the Clerk-Treasurer to apply for annexation levy appeal, so that we could, the City could, move forward the way it wants to. And I am frankly appalled that a

mistake has hampered the ability of the City to move forward as quickly as it would like to, as we would like to, and, I think, as the citizens would like to.

Mayor Mills said well, and again, the saving grace of the process is that we have another chance—

Councilor O'Callaghan said that we have three years to apply.

Councilor Satterly said but it might come back to bite us a couple years down the line.

Mayor Mills said well, we'll just have to hope we have good growth this year, and when we go to look—

Clerk-Treasurer Rhodes said I think I addressed part of the comments you've just made in one of my responses. At the last Council meeting, Councilor Truitt asked the question, "Do we really still need this excessive levy appeal, given the revision to the revenue and also knowing that we're going to cut the insurance line item?" My answer to him was that this was a process which gave us several points at which we had an opportunity to reduce the appeal. And I felt that an important point would be when we got our County Option Income Tax numbers. The discussion that is outlined here in this Q and A would have been the discussion that I would have had with the Mayor at that time.

Councilor O'Callaghan said yes.

Clerk-Treasurer Rhodes said and so my answer was that there would be points at which you could view the situation. And the discussion here is not something that wouldn't have occurred, probably within the next week or two, when we finally get the County Option Income Tax numbers. Because the items that I discuss in question 8 are as germane now as they would have been a week from now for everyone to consider regarding the timing and the magnitude of the excessive levy appeal. As far as the advantages or disadvantages of filing it this year compared to next year, it is my opinion that, given the situation we have, we will gain several advantages. The fiscal plan does not include all the operating costs of the annexation appeal at all. If you compare that fiscal plan with the plan that the same firm did for the City of Jeffersonville, you will see what they left out of ours. Second of all, there are assumptions in there about growth in income tax which really need to be reexamined. The growth rate of the income tax, basically, is pledging our entire growth in income tax for the next 20 years to cover the cost of annexation. We rely on that growth to fund what we're already doing in the City. The third thing is it is not clear when there will be needs to add additional personnel to provide services to the annexation area. I think when you have a growth of only 27 homes in the current year—which no one could have foreseen—we have an advantage to have a year of experience, or at least close to nine months before we enter the budget process and have a better understanding when we need to bring on people and what our costs really are. Those are all advantages we gain by having a delay. As far as I'm concerned, the real disadvantage is that part of the excessive levy appeal, since it's a one-time appeal—we couldn't go back, was meant to bank some of that increased levy, allow it to grow. So when we brought on additional people, we would have the benefit of that growth every year by the annual factor, the income we might earn from investment, and that would help us have more of a cushion to go ahead. So, yes, in fact, careful control of spending will need to occur, control of encumbrances at year end. Those are basic practices the City has always employed. And therefore, there are, in fact, several benefits to be gained from the unfortunate situation. My job is to catch mistakes. My job isn't to

wash the dirty linen in public. I acknowledge the mistake, made shortly after my father's death, and I truly regret it. However, I have the experience and the knowledge to see the way forward. And both the Mayor and I are quite capable of managing the situation, funding the budget as requested in all of its necessary functions. And, in fact, this has been a year in which taxpayers in many neighborhoods in our City have been hit by trending. The City tax rate will be flat or fall. We know the school, West Lafayette School tax rate is going up significantly. This is going to be an asset, in terms of keeping our City competitive and keeping the growth of the tax rate down.

Councilor O'Callaghan said I agree that those discussions would have happened, and we talked about them, and we talked about all the ways that the Mayor has tightened belts and done cost-cutting. And I was glad to hear you recognize that, that the City has been doing those things. But the fact of the matter is that we would have been able to have a greater operating balance, which many of us have wanted to have an operating balance, and we would have had the choice, we would have made the decision about reducing the annexation levy appeal. And this time, the decision is now not in our hands, because of the mistake that was made, and we cannot now apply for the appeal. So that's just the point that I wanted to make, and that I believe is true, and I'm glad that the Mayor—and you are willing to work with the Mayor to make the best of it. But it is indeed the fact. And I felt it was important to get that in the record.

Mayor Mills said thank you. Any other comments or questions?

Councilor Keen said my take is that this whole unfortunate situation has, in my opinion, turned out to be a blessing in disguise, because, number one, we don't have the growth in the annexation area that was forecast and, you know, nobody could have seen that. This increase was not necessary for this year and, in fact, postponing more expense this year and we can wait 'til next year and get the expenses we need at that time—

Councilor Griffin said I think it's needed—

Councilor Keen said when we have a better understanding of what our needs are going to be.

Mayor Mills said and I would less concerned if we hadn't started out initially, the Clerk-Treasurer and I, talking about close to \$1 million appeal, which I was not willing to do, because I thought that was going to be too big a tax increase. But that was our initial conversation, because that's the kind of balance we both felt we needed to have in there. So now that we have nothing going forward, I'm a little more nervous about that.

Clerk-Treasurer Rhodes said well, I would like to make a statement here. That the Mayor came to me with a budget proposal—several—that certainly would have had \$1 million appeals. And my job is to run the numbers, and she didn't much like the result of that appeal, and she worked over a period of time to reduce the need for that appeal. The number that was eventually the choice of the Mayor was to provide the funding that would have covered the additional firefighters, and, as you remember, this annexation appeal would have generated approximately \$300,000 more money than we would have needed to fund the budget.

Councilor O'Callaghan said but we wanted to have the balances—

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Clerk-Treasurer Rhodes said and that was because we won't be able to get another chance to act. There is no way that appeal would have covered the operating costs that we're going to incur with this annexation. She knows that and I know that.

Councilor O'Callaghan said so it sounds like you're saying that you hope next time we can go with a larger annexation appeal, by having these other factors. And it sounds like it might be your recommendation to appeal for a larger amount next time than \$600,000.

Clerk-Treasurer Rhodes said my recommendation is to use the best numbers we can to forecast the costs of providing services to the annexation area. And, when you have a situation like this, we try to take the best you can out of it.

Councilor O'Callaghan said exactly.

Clerk-Treasurer Rhodes said and there are lots of positives—

Councilor O'Callaghan said I believe we can make the best of it.

Clerk-Treasurer Rhodes said and when mistakes happen in the City, that's our normal practice. We try to take the best we can out of it. And that's the way that I believe I have operated, and that's the way I believe a lot of people in the City operate. And that's what working in the public interest is all about.

Councilor O'Callaghan said exactly. I'm glad that you'll be able to work with the Mayor to make the best of this.

ADJOURNMENT:

There being no further business at this time, Councilor Griffin moved for adjournment. Motion was seconded by Councilor Satterly and passed by voice vote, the time being 5:30 p.m.

Respectfully submitted,

Judith C. Rhodes, Clerk-Treasurer
Secretary of the Common Council